

**LEGAL PROTECTION FOR THE MISUSE OF INDOSIAR LOGO ON VIDEO
CONTENT OF MOBILE SERVICE PARODY ON *INSTAGRAM* APPLICATION****Dhea Titania Octavia Putri**Program Studi Ilmu Hukum, Fakultas Hukum, Universitas Muhammadiyah Surakarta
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rizka@ums.ac.id**ABSTRACT**

The utilization of internet technology has significantly impacted various aspects of human life, especially in the realm of social media. Instagram, as one of the main social media platforms, provides a space for individuals to share various types of multimedia content, including parody content. However, in this context, issues of intellectual property rights, particularly concerning the misuse of company logos, have become increasingly relevant. The objective of this article is to examine the legal safeguards concerning the improper utilization of the Indosiar logo within parody materials found on Instagram. Using a normative legal approach and case study methodology, this research identifies legal violations occurring under the Copyright Law and Trademark Law. Additionally, it highlights Instagram's policies as an electronic system provider in addressing logo misuse. The results of this study reveal that the inappropriate use of corporate logos in Instagram parody content raises a conflict between the freedom of expression and intellectual property rights. Although parody content aims to entertain, unauthorized logo usage constitutes a trademark infringement that can damage a company's reputation. Hence, ensuring legal safeguards for intellectual property rights in the digital era necessitates collaboration among regulators, corporations, and social media platforms to establish a balanced framework benefiting all stakeholders.

Keyword: Parodi Content; Logo; Instagram; and Legal Protection.

INTRODUCTION

The use of internet technology has had an important impact on drastic changes in various aspects of human life, especially in the world of social media.(1) In the context of the digital era characterized by the development of information technology and social networks, *Instagram* has become one of the main platforms for individuals to express themselves through various types of multimedia content. On *Instagram*, parody content has become one of the types of content inspired by various aspects, including soap operas aired on the Indosiar television station.

Intellectual property rights are rights specifically granted to Copyright Owners or

Holders, providing legal protection to human creative works and their economic values. (2) Logos are copyrighted works that get legal protection from the Copyright Law and the Trademark and Geographical Indications Law. (3,4) Intellectual property rights, which include Copyrights and Trademarks, play a central role in ensuring legal protection of creative works and trademarks in the digital age. Copyright protects original works such as videos, while Trademark Rights protect brand identities and company logos from unauthorized use. The aim to encourage innovation and creativity, as well as to keep creators' works from being misused by other users, is not authorized.(5)

Legal protection of logos in accordance with Copyright Law Article 40 paragraph (1) letter f, covers works of fine art including logos which are a form of creation in the fields of science, art, and literature. On the other hand, legal protection of logos according to the Trademark Law and Geographical Indications Article 2 paragraph (3) of Law Number 20 Year 2016, includes various elements such as images, names, words, letters, numbers, color arrangements, in two or three-dimensional form, sound, holograms, or a combination of elements that aim to distinguish goods and/or services produced by individuals or legal entities in trade activities.(6)

However, in July 2023, a viral incident occurred that is relevant to be discussed here, namely the misuse of the Indosiar logo by changing it to "Indosial", "Indovision", "Indonesia" and so on in a video content parody of mobile services uploaded on Instagram without permission from the Brand Owner PT Indosiar Visual Mandiri.

Legal protection against the misuse of Indosiar logo in parody content on *Instagram* involves the conflict between freedom of expression and intellectual property rights.(7) Although the parody content has an entertaining purpose, the unauthorized use of the logo is a violation of Brand Rights that has the potential to damage the reputation of the Indosiar brand in the eyes of *Instagram* account user creators.(8)

This problem is revealed through several violations of articles in the Copyright Law. First, in accordance with Article 9 paragraph (1) of Law Number 28 of 2014 concerning Copyright, it is explained that the creator and / or copyright holder has the economic right to reproduce copyrighted works in various forms. Second, Article 9 paragraph (3) of Law Number 28 Year 2014 on Copyright prohibits individuals from commercially reproducing copyrighted works without the permission of the Creator and/or Copyright Holder.(9) In addition,

infringements are also documented in the Trademark and Geographical Indication Law. Article 83, paragraph (1) of Law Number 20 Year 2016 on Trademark Rights and Geographical Indications stipulates that the proprietor of a registered trademark or the licensee of a registered trademark is entitled to file a lawsuit against other parties who use a similar trademark unlawfully for similar goods and/or services, by stopping the use of the trademark in its entirety.(10)

It is expected that *Instagram* as an electronic system organizer must pay attention to compliance with applicable legal regulations. Policy conformity has been established with the provisions of Article 10 of the Minister of Communication and Information Technology Regulation Number 10 of 2021 concerning Amendments to the Minister of Communication and Information Technology Regulation Number 5 of 2020 concerning Private Scope Electronic System Operators. The article confirms that electronic system providers are responsible for facilitating related electronic system settings, reporting services, and the rights and obligations of electronic system users.

The purpose of this research is to understand the form of legal protection against the misuse of the Indosiar logo in the video content of the traveling service parody on the Instagram application and the Instagram application policy of the American company Meta Inc as an electronic system organizer in handling the misuse of the Indosiar logo in the video content of the mobile service parody.

RESEARCH METHOD

This research is a legal analysis that adopts a normative approach using a legislative framework and case studies.(11) The data sources utilized include a variety of legal documents, including primary and secondary documents. The research aims to identify various forms of legal protection and legal regulations contained in Law Number 28 of 2014 concerning Copyright and Law Number 20 of 2016 concerning Trademarks and Geographical Indications. In addition, researchers also analyzed the articles governing the Instagram platform policy as an Electronic System Operator.(12)

RESULTS AND DISCUSSION

Forms of Legal Protection Against Misuse of the Indosiar Logo on Video Content Parody

Mobile Services in the *Instagram* Application

The protection of logos is not solely contingent upon the parameters of trademark rights, as delineated in Article 40, paragraph f, of Law Number 28 of the Year 2014 on Copyright. It also encompasses the safeguarding of artistic creations in the form of paintings, drawings, engravings, calligraphy, sculpture, statues, or collages. The term “image” encompasses motifs, diagrams, sketches, logos, in addition to elements of color and elegant letterforms. The relationship between logo protection and Copyright is only visible in the aspect of “Copyright” itself. Article 65 of Law Number 20 of 2014 concerning Copyright explains the limitations of recording creations, including logos or distinguishing marks used as marks in the trade of goods/services or as symbols of organizations, business entities, or legal entities.

Moral Rights are the protection of the personal interests of the Creator and/or Copyright Holder, also important in the context of Copyright. Article 5 of Law Number 20 of 2014 concerning Copyright states that Moral Rights are rights that are eternally attached to the Creator.

However, in Indonesia there is often a conflict between what is desired in the law and the facts that occur. Although Intellectual Property Rights are well regulated and guaranteed for authenticity, rights violations are still common by irresponsible users.

In this discussion, researchers explore alternatives to maintain the sustainability of Intellectual Property Rights, both Copyright and Trademark Rights while still complying with applicable legal provisions.⁽¹³⁾ There are two alternatives in focus, as explained earlier regarding the basics of protecting the Right to Logo.

With regard to Copyright, the relationship between Copyright and the Right to a Logo concerns Moral Copyright which is permanently attached to the Creator and cannot be revoked without good cause, even if the Copyright has been transferred. Therefore, the following alternatives exist:⁽¹⁴⁾

1. The first alternative is that the User becomes the Copyright Owner itself;
2. The second alternative is that the Creator and/or Copyright Holder grants direct permission for a specific use, such as exploratory research purposes or non-commercial users;

3. The third alternative is when the Copyright protection rights expire and the logo becomes public domain.
4. In the context of Trademark Rights, the relationship between Trademark Rights and Logo Rights lies in the nature of the logo as part of the Trademark, as explained in the definition of trademark by Law Number 20 Year 2016.

Therefore, there are two alternatives as follows:(15)

1. The first alternative is to go through an examination at the Directorate General of Intellectual Property to ascertain whether the trademark has been registered and whether the protection period is still valid. Then, it is necessary to conduct further examination regarding the type of trademark;
2. The second alternative is applied when the initial examination shows that a Trademark Right can be used as an alternative in the following situations:
 - a. The trademark is not registered in Indonesia;
 - b. The protection period of the trademark has expired;
 - c. The trademark is not categorized as a well-known trademark.

While alternative measures for the use of logo rights may be taken, it should be noted that they may not accommodate long-term answers, and could even potentially be problematic for alternative users in the future for reasons that cannot yet be predicted.

Furthermore, in an effort to protect the rights to a logo, various other steps can be taken that involve legal sanctions within the scope of Intellectual Property Law. Based on Indonesian and International Legal Jurisdiction, especially in the context of Civil and Criminal as follows:(16)

The creator or copyright holder has the right to obtain compensation for copyright infringement. Procedures for legal remedies in the civil field are regulated in Articles 96-104 of Law Number 28 Year 2014 on Copyright, which is part of Chapter XIV on Dispute Resolution. Meanwhile, criminal remedies against Copyright infringement are regulated in Article 95, Article 105, and Articles 110-120 of Law Number 28 Year 2014 on Copyright, which are part of the third Part on Legal Remedies.

Meanwhile, the procedure of remedies in the civil field is regulated in Articles 84-93 of Law Number 20 Year 2016 on Trademark Rights and Geographical Indications, which is part of Chapter XV on Dispute Resolution, and criminal remedies against infringement of

Trademark Rights are regulated in Articles 100-102 of Law Number 20 Year 2016 on Trademark Rights and Geographical Indications, which is part of Chapter XVIII on Criminal Provisions.

Legal arrangements in the form of criminal sanctions stipulated in Article 113 of the Criminal Provisions of Law No. 28 of 2014 on Copyright for Copyright infringement include: (17)

- 1) Everyone who without the right to infringe the economic rights as referred to in Article 9 paragraph (1) letter for commercial users shall be punished with imprisonment for a maximum of 1 year and / or a maximum fine of IDR 100,000,000 (one hundred million rupiah);
- 2) Everyone who without rights and/or without the permission of the Creator or Copyright Holder infringes the economic rights of the Creator as referred to in Article 9 paragraph (1) letter c, letter d, letter f, and/or letter h for Commercial Use shall be punished with a maximum imprisonment of 3 (three) years and/or a maximum fine of IDR 500,000,000.00 (five hundred million rupiah);
- 3) Everyone who unlawfully and/or without the authorization of the Creator or Copyright Holder infringes the economic rights of the Creator as referred to in Article 9 paragraph (1) letter a, letter b, letter e, and/or letter g for Commercial Use shall be punished with a maximum imprisonment of 4 (four) years and/or a maximum fine of Rp1,000,000,000.00 (one billion rupiah).

Legal arrangements in the form of criminal sanctions provided for in Article 100 of the Criminal Provisions of Law Number 20 of 2016 concerning Trademark Rights and Geographical Indications for infringement of Trademark Rights include: (18–20)

- 1) Everyone who without right uses the same Trademark in its entirety as the registered Trademark owned by another party for similar goods and/or services produced and/or traded, shall be punished with imprisonment of 5 (five) years and/or a maximum fine of IDR 2,000,000,000.00 (two billion rupiah);
- 2) Everyone who unlawfully uses Trademarks that are substantially similar to registered Trademarks owned by other parties for similar goods and/or services produced and/or traded, shall be punished with imprisonment of 4 (four) years and/or a maximum fine of IDR 2,000,000,000.00 (two billion rupiah);

- 3) Everyone who violates the provisions as referred to in paragraph (1) and paragraph (2), whose type of goods results in health problems, environmental disturbances, and/or human death, shall be punished with imprisonment for a maximum of 10 (ten) years and/or a maximum fine of IDR 5,000,000,000.00 (five billion rupiah).

The *Instagram* Application Policy of the American Company Meta Inc as an Electronic System Operator in Overcoming the Misuse of the Indosiar Logo on the Mobile Services Parody Content Video on the *Instagram* Application

Instagram as an electronic system organizer is responsible for maintaining intellectual property. They have clear policies regarding the use of content that does not belong to the user. In this case, users must obtain permission or license from the original owner before uploading content that does not belong to them.(21) In case of infringement, the Copyright owner can report it to *Instagram*.

Instagram has a policy to remove copyright content under its terms of use. If intellectual property violations occur repeatedly, *Instagram* may take actions such as disabling or deleting the infringing account.(1)

The Minister of Communication and Informatics Regulation Number 10 of 2021, which amends the Minister of Communication and Informatics Regulation Number 5 of 2020 on Private Sphere Electronic System Operators, clearly defines *Instagram*'s responsibilities as an electronic system operator. These responsibilities cover several important aspects:

- a) Legal compliance: *Instagram* shall ensure that its operations comply with all applicable regulations and laws, both at national and international levels. This includes complying with copyright, trademark, data privacy and other regulatory laws related to content published on its platform;
- b) User protection: *Instagram* has an obligation to protect users from inappropriate, harmful or illegal content. This may include using algorithms to monitor and remove content that violates terms of use, as well as providing effective reporting mechanisms for users to report inappropriate content;
- c) Content policy: The platform should have a clear and consistently applied content policy to govern the types of content that are allowed and those that are not. This includes content that violates Intellectual Property Rights, including misuse of Trademark Rights or Copyrights of others; and

- d) Cooperation with Legal Authorities: *Instagram* should be prepared to cooperate with legal authorities in investigating violations of the law that occur on its platform. This may include providing user data to authorities or removing content ordered by a court.

Article 10 paragraph (2) of the Minister of Communication and Information Technology Regulation Number 10 of 2021 emphasizes the governance of electronic systems which must include at least the obligations of electronic system users in using the service. As an electronic system provider, *Instagram* has a policy that regulates the obligations and rights of electronic system users in using the service. *Instagram* imposes a number of restrictions for its users to comply with the rules that have been set, including:

- a. Users must be at least 13 years old to operate *Instagram*;
- b. Users are prohibited from accepting any aspect of the application's services if they are listed in the list of prohibited parties;
- c. *Instagram* users must not be a convicted sex offender.

Article 10 paragraph (3) of the Regulation of the Minister of Communication and Informatics Number 10 of 2021 concerning Amendments to the Regulation of the Minister of Communication and Informatics Number 5 of 2020 concerning Private Sphere Electronic System Operators confirms that the reporting facilities mentioned in paragraph (1) letter b are able to be accessed by the general public and are used to submit complaints or reports related to prohibited Electronic Information and/or Electronic Documents in the Electronic System operated by the organizer. *Instagram* offers a reporting tool to its users, accessible via the company's official website. The tool enables users to flag content that violates *Instagram*'s community guidelines, including comments, messages, conversations, and instances of intellectual property infringement.

In accordance with the infringement policy set forth by *Instagram*, users of the social media platform who repeatedly upload content that violates intellectual property rights, including copyright and trademark, may face consequences such as account deactivation or deletion. *Instagram* offers a platform through which copyright infringement can be reported by the copyright owner.

Copyright owners who feel that their rights have been misused by others without permission can take the following steps:(22)

- a. Report to *Instagram* by filling out the form provided;
- b. Reporting to *Instagram* using Brand Rights Protection;
- c. Reporting by contacting *Instagram's* specialized agency with the complete Copyright claim and corresponding report.

Copyright Owners have the option to submit a Copyright infringement report by filling out an online form. This form is publicly accessible on *Instagram's* official website. The report form should include the following information:

- 1) Full contact information of the reporter, including full name, mailing address, and telephone number;
- 2) Description of the reported content and the reason why the content is considered to be infringing Copyright;
- 3) Information about the web address or link of the reported content;
- 4) A statement confirming that:
 - a. The reporter believes in good faith that the use of the reported content does not have permission or authorization from the Copyright Holder in accordance with the law;
 - b. The information in the report is accurate;
 - c. Under oath, the Reporter declares that they are the Owner or the party authorized to act on behalf of the Owner of the Exclusive Rights that are allegedly infringed;
 - d. Electronic signature or conventional signature.

In instances where copyright owners perceive a violation of their intellectual property rights, *Instagram* will initiate an investigation into the matter. Submitted reports will be acknowledged with an automated reply via email that includes pertinent details about the report, including a unique report number that can be used to contact *Instagram* regarding the complaint. Following the receipt of an infringement report and the subsequent removal of the infringing content, *Instagram* will provide the reported party with information including the report number, the name of the rights owner, the reporter's email address, and a summary of the report. It is intended that the affected party can communicate directly with the reporter. However, this policy has limitations where reporting can only be done by the Copyright Owner. Others who are aware of the infringement but are not the Owner do not have the authority to

report it to *Instagram*.⁽²³⁾

Apart from through social media platforms such as the Instagram app, Copyright protection can be achieved through legal remedies in court.⁽²⁴⁾ Creators or Copyright Holders have the option to resolve disputes related to copyright infringement through civil or criminal channels. Settlement through the criminal realm is usually the last step in resolving Copyright disputes.⁽²⁵⁾

In light of the aforementioned evidence, it can be reasonably deduced that the *Instagram* policy of the American company Meta Inc., an Electronic System Operator, has been effective in addressing the misuse of the Indosiar logo on parody content videos of mobile services on Instagram. The policy addresses several key aspects related to this issue.

1. Infringement reporting: Owners of the Indosiar logo or parties with an interest in the brand may report misuse of the logo to *Instagram*. They can use the reporting feature provided by the platform to notify Instagram of the infringement;
2. Copyright reporting form: *Instagram* provides a special reporting form for Copyright infringement cases. The owner of the Indosiar logo can fill this form with the necessary information about the infringement, including a description of the infringing content, URL address, and other evidence;
3. Cooperation with authorities: Apart from involving *Instagram*, the owner of the Indosiar logo can also file a complaint with the authorities, such as the police or other relevant legal institutions. This step can be taken if the violation has been repeated until it goes viral on social media;
4. Law enforcement: Upon receiving a report or complaint, *Instagram* will review the infringement case and take appropriate steps, including removal of the infringing content and legal action against the infringer. They may also work with the owner of the Indosiar logo to resolve the matter legally.

CONCLUSION

The conclusion of this article is that the case of misuse of the Indosiar logo in parody content on *Instagram* raises a conflict between the right to freedom of expression and Intellectual Property Rights. Although the parody content has an entertaining purpose, the unauthorized use of the logo is a violation of Trademark Rights that damages the reputation of

the Indosiar brand. In the face of this, the protection of logos is not only limited to Trademark Rights, but also includes Copyright. Legal steps with an effort to protect the rights to a logo, can involve legal sanctions within the scope of Intellectual Property Law. The creator or copyright holder has the right to obtain compensation for copyright infringement. The procedure for legal remedies in the civil field is regulated in Articles 96-104 of Law Number 28 of 2014 concerning Copyright, which is part of Chapter XIV concerning Dispute Resolution. In the meantime, the legal ramifications of copyright infringement are delineated in Article 95, Article 105, and Articles 110-120 of Law Number 28 Year 2014 on Copyright, which constitutes the third section on legal remedies. In the civil domain, the procedure for legal remedies is delineated in Articles 84-93 of Law Number 20 Year 2016 on Trademark Rights and Geographical Indications. This legislation is part of Chapter XV on Dispute Resolution. In the criminal domain, criminal remedies against infringement of Trademark Rights are set forth in Articles 100-102 of Law Number 20 Year 2016 on Trademark Rights and Geographical Indications. This legislation is part of Chapter XVIII on Criminal Provisions. In addressing the misuse of the Indosiar logo on a video content parody of mobile services, *Instagram's* policy as an electronic system organizer of the American company Meta Inc. provides an illustrative example of a commitment to the protection of copyright and trademarks. This commitment is demonstrated through policy enforcement, effective reporting mechanisms, communication with copyright owners, and cooperation with authorities. Instagram plays an active role in ensuring the removal of infringing content and the protection of copyright owners in maintaining the integrity of intellectual property rights in the digital age.

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